

PART F.—SUSPENSION AND REMISSION OF SENTENCES

I. It happens at times that sentence which a Judge or a Magistrate can pass under the law is unsuitable in view of all the circumstances of the case. In such cases all that can be done is to make a recommendation to the 'appropriate Government' to take action under section 401 and 402 of the Code of Criminal Procedure. When a Sessions Judge or a Magistrate passing a sentence wishes a case to be brought; to the notice of the appropriate Government for remission or commutation of the punishment he should submit the recommendation with his proceedings through the High Court other wise the High Court may hear in appeal a case in which the Government has remitted or commuted the punishment, without knowing of such remission or commutation. 'Appropriate Government' for the purposes of sections 401 and 402 of the Code has been defined in sub-section (3) of section 402 of the Code (as amended by Adaptation of Laws Orders, 1950). In this connection also see articles 72 and 161 of the Constitution of India.

Recommendation for remission or commutation to 'appropriate Government.'

'Appropriate Government' defined.

II. The Central Government has made the following rules in exercise of powers conferred by sub-section (6) of section 401 of the Code:-

Rules made by Central Government.

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MINISTRY OF HOME AFFAIRS

New Delhi-2 the 9th November, 1955.

S. R. O. 3491,—In exercise of the powers conferred by sub-section (6) of Section 401 of the Code of Criminal Procedure 1898, (Act V of 1898) the Central Government hereby makes the following rules:—

1. Where a petition for suspension of the execution of the sentence of imprisonment or for remission of the whole or part of a sentence of imprisonment is made by or on behalf of a person sentenced to imprisonment for an offence against any law relating to a matter to

which the executive power of the Union extends and the person sentenced to such sentence of imprisonment is in Jail, the execution of the sentence shall be suspended and such person released on parole, subject to the conditions specified in rule 3, for such period not exceeding fifteen days; as may be necessary for obtaining the orders of the Central Government on the petition, if the State Government of the State in which such person is detained in jail is satisfied that the immediate release of such person on parole is rendered necessary by reason of any illness constituting a grave threat to the life of such person or of a parent, wife, husband or child of such person.

2. A State Government ordering a release on parole under rule 1 shall forthwith report the full facts and circumstances of the case to the Central Government, while forwarding the petition to the Central Government and the Central Government may on consideration of the report and petition make such order as they deem fit.

3. A person released on parole under rule I shall enter into a bond undertaking to reside during the period of his parole at a place specified therein and not depart therefrom without the previous permission of the State Government and to return to the jail in which he is confined on expiry of the period of his parole, and to conform to such other conditions as the State Government may consider necessary, (No. 43/ 32/55-Judi& I).